

IWAMURA *et al.*, Serial No. 09/774,715
Amdt. dated 21 September 2004
Reply to OA mailed 21 May 2004

572.39563X00/P0360US
Page 12

REMARKS

This Amendment is responsive to the Office Action identified above, and is further responsive in any other manner indicated below.

REQUEST FOR COMPLETE ACKNOWLEDGMENT OF §119 PRIORITY

At Item 12)a) in the Office Action Summary, a partial acknowledgment is made of the claim for foreign priority under 35 USC §119 and submission of the two (2) certified Japanese applications on 3 May 2001. However, acknowledgment is incomplete in that the Office does not fully acknowledge receipt of the 2 certified JP documents in the present application (Item 12)a)1)). Therefore, Applicant respectfully requests written acknowledgment of the receipt of the 2 JP certified priority documents by the Office.

OBJECTION TO THE SPECIFICATION/CLAIMS OBVIATED VIA AMENDMENT

At Items 1 and 2 on page 2 of the Office Action, the Abstract of the Disclosure, and Claims 1 and 3, were objected to for informalities.

The Abstract of the Disclosure has been amended to conform to 37 CFR §1.72(b), to be 150 words. No new matter is added.

Further, unrelated to any prior art or scope adjustment, Claims 1 and 3 have been amended in such a way as to overcome the objections raised by the Examiner. No new matter is added.

IWAMURA *et al.*, Serial No. 09/774,715
Amdt. dated 21 September 2004
Reply to OA mailed 21 May 2004

572.39563X00/P0360US
Page 13

As the disclosure and claims have been carefully reviewed and amended where appropriate in order to address each of the Office Action listed concerns, reconsideration and withdrawal of the objections to the Abstract of the Disclosure, and Claims 1 and 3, are respectfully requested.

REJECTION UNDER §112, 2ND PARA. OBIATED BY CLAIM AMENDMENT

Claims 2, 4, 5 and 12-14 were rejected under 35 USC §112, second paragraph, as being indefinite for the concerns listed at Item 4 on page 2 of the Office Action. Appropriate ones of the claims have been carefully reviewed and carefully amended where appropriate in order to address the Office Action listed concerns.

With regard to Claims 2 and 12, the claims have been amended to specify that the upper-limit bandwidth is based on disclosed limits, e.g., a predetermined upper-limit bandwidth stored in memory.

With regard to Claims 4 and 13, the term "approximate" has been deleted.

With regard to Claims 5 and 14, the claims have been minorly amended to more specifically describe that an invalid cell detector detects invalid cells received in the cell receiving unit which are not detected as invalid cells in the cell receiving units and which might create a cell overflow situation which would cause inaccurate calculation of upper-limit and/or shared bandwidth. It is believed that such apparatus and method are sufficiently disclosed in the application as filed for any one of ordinary skill in the art, e.g., at page 9, lines 21-26 and page 19, lines 2-6.

Best Available Copy

IWAMURA *et al.*, Serial No. 09/774,715
Amdt. dated 21 September 2004
Reply to OA mailed 21 May 2004

572.39563X00/P0360US
Page 14

As the foregoing is believed to have addressed all §112 second paragraph concerns, reconsideration and withdrawal of the §112 second paragraph rejection are respectfully requested.

PENDING CLAIMS

Claims 1-18 were pending in the application, under consideration and subject to examination at the time of the Office Action. Unrelated to any prior art, scope or rejection, appropriate claims have been amended in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, the amendments to the claims are unrelated to any prior art or scope adjustment, and are simply clarified claims in which Applicant is presently interested. At entry of this paper, Claims 1-18 remain pending in the application for consideration and examination.

ALL REJECTIONS UNDER 35 USC §§102 AND 103 - TRAVERSED

All 35 USC 102 and 103 rejections are respectfully traversed. Such rejections have been rendered obsolete by the present clarifying amendments to Applicant's claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude renewal of any such rejections against Applicant's clarified claims.

All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated herein by reference. Further, all Office Action statements regarding the prior art rejections are

Best Available Copy

IWAMURA *et al.*, Serial No. 09/774,715
Amdt. dated 21 September 2004
Reply to OA mailed 21 May 2004

572.39563X00/P0360US
Page 15

respectfully traversed. As additional arguments, Applicant respectfully submits the following.

In order to properly support a §102 anticipation-type rejection, the reference must teach the specific limitations of the claimed invention. In order to properly support a §103 obviousness-type rejection, the reference not only must suggest the claimed features, but also must contain the motivation for modifying the art to arrive at an approximation of the claimed features. However, the cited art does not adequately support either a §102 anticipation-type rejection or a §103 obviousness-type rejection because it does not, at minimum, disclose (or suggest) the following discussed limitations of Applicant's claimed invention.

More particularly, several example differences between the present invention and cited documents are as follows.

Regarding a first difference, the present invention especially relates to, as stated in the preamble of Claim 1, "An ATM communication apparatus connected with a plurality of optical network units for issuing access permission to permit transmission of ATM cells to said plurality of optical network units and receiving ATM cells." Also, the invention claimed in Claim 10 especially relates to "[a] bandwidth control method that issues access permission to permit transmission of ATM cells to a plurality of optical network units and controls a bandwidth of ATM cells received from each of said optical network units."

On the other hand, Ma discloses, in a network in which ATM switches connected to customer networks are interconnected, a control unit (e.g., centralized control module 160) which is connected to one of the ATM switches. The centralized

Best Available Copy

IWAMURA *et al.*, Serial No. 09/774,715
Amtd. dated 21 September 2004
Reply to OA mailed 21 May 2004

572.39563X00/P0360US
Page 16

control module 160 totally manages call control such as connection and disconnection of virtual path (VP) or virtual channel (VC).

In this manner, system structure is completely different between the present invention and Ma. That is, the system of the present invention assumes that the ATM communication apparatus receives ATM cells from the optical network unit, but on the other hand, Ma assumes that the centralized control module does not execute receiving processing but only executes do call control.

Turning next to a second difference, the present invention supervises traffic status between the ATM communication apparatus and the optical network unit based on, for example, how much it receives ATM cells or whether the invalid cell is included in the received cell. On the other hand, in Ma, the centralized control module connected to at least one of the ATM switches measures the load of network.

As mentioned above, the way of measuring load of network is also different between the present invention and Ma.

As to a third difference, in the present invention, a bandwidth assigned to the optical network units is divided into "a basic bandwidth" and "a shared bandwidth." The bandwidth is assigned again (reassigned) according to the traffic status of network, and regarding "the shared bandwidth", the shared bandwidth is assigned according to the amount of "an upper-limit bandwidth." By assigning again "the shared bandwidth" according to the amount of "the upper-limit bandwidth," a bandwidth according to the contract (e.g., a service contract) with a user can be provided to the user.

IWAMURA *et al.*, Serial No. 09/774,715
Amdt. dated 21 September 2004
Reply to OA mailed 21 May 2004

572.39563X00/P0360US
Page 17

On the other hand, Ma divides two kinds of bandwidth and Ma does not disclose any technique to assign again according to amount of "upper-limit bandwidth," as does the present invention.

Turning finally to a fourth difference, the present invention finally issues "access permission" to the optical network unit and, accordingly, controls the amount of ATM cells which the optical network unit transmits. In fact, for using the present invention, only the main body of issuing the access permission should be arranged, so the optical network units are not necessary to be changed and the existing optical network units can be used.

On the other hand, concerning Ma, for generation request of VP or VC from a user, the centralized control module permits the generation request, supervises bandwidth of the permitted VP or VC, and disconnects the VP or VC if the bandwidth exceeds a threshold. This processing is completely different from the present invention.

In conclusion, as described above, the amended claims of the present invention are clear, and Applicant's disclosed and claimed invention is clearly different from the cited documents. Therefore, since the invention has the objects, constitution and advantages not described in any one of cited references, the applied references would not have disclosed or suggested Applicant's disclosed and claimed invention, and such claims are patentable under 35 USC §§102 and 103.

As a result of all of the foregoing, it is respectfully submitted that the applied art would not support a §102 anticipatory-type rejection or §103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such

IWAMURA *et al.*, Serial No. 09/774,715
Amdt. dated 21 September 2004
Reply to OA mailed 21 May 2004

572.39563X00/P0360US
Page 18

§102 and §103 rejections, and express written allowance of all of the rejected claims, are respectfully requested.

RESERVATION OF RIGHTS

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer of any scope or subject matter. Further, Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, *i.e.*, Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

EXAMINER INVITED TO TELEPHONE

The Examiner is invited to telephone the undersigned at the local D.C. area number 703-312-6600, to discuss an Examiner's Amendment or other suggested action for accelerating prosecution and moving the present application to allowance.

CONCLUSION

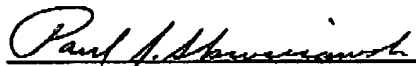
A Petition for a one month extension of the shortened statutory period for response set by the 21 May 2004 Office Action is submitted herewith. To whatever other extent is actually necessary and appropriate, Applicant respectfully petitions

IWAMURA *et al.*, Serial No. 09/774,715
Amdt. dated 21 September 2004
Reply to OA mailed 21 May 2004

572.39563X00/P0360US
Page 19

the Commissioner for an extension of time under 37 CFR §1.136. Also attached is a Form PTO-2038 authorizing payment of the requisite Petition fee for entry of this paper. Please charge any actual required fee to ATS&K Deposit Account No. 01-2135 (as Case No. 572.39563X00).

Respectfully submitted,



Paul J. Skwierawski
Registration No. 32,173
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, Virginia 22209-3801, USA
Telephone 703-312-6600
Facsimile 703-312-6666

Attachments:
Petition for Extension of Time
Form PTO-2038 (Fee Code 1251)